

REMARKS

Reconsideration of the application is respectfully requested.

Claims 21-42, 45 and 46 were pending in the Application. Claims 21, 32, 42, 45 and 46 were amended. Claims 21-42, 45 and 46 are now pending in the application.

The amendments of claims 21, 32, 42, 45 and 46 were made to better clarify the present invention. They find support in Figures 5, 6 and 8.

An Additional Drawing, Figure 6A was added and finds support in Figures 5, 6, and 8, among other places

NEW ARGUMENTS

Regarding Final Rejection of 09/02/2004

DETAILED ACTION

1. The comments of the Examiner are acknowledged.
2. Applicants have amended the claims to indicate that claims 6 and 10 are cancelled.

Claim Rejections - 35 USC § 102

3. The comments of the Examiner regarding the quotation of 35 USC § 102(b) are acknowledged.
4. Claims 21-25, 28-36, and 39-42 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Giannuzzi (U. S. Patent No. 5,447,005).

Applicants respectfully traverse the position of the Office Action. The claims of the present invention, have immense differences when compared to what Giannuzzi (U. S. Patent No. 5,447,005) discloses.

Applicants respectfully submit, that there are certain common features and elements in both inventions.

However, first and foremost, the claims of the present invention, as better now clarified, require that the barbs of the fastener have an origin at a region selected from the side neck portion. The side neck portion is by definition **away from the center of the neck**, and the side leg portion **away from the center of the leg**. It is very clear in the specification that each leg 24 has a side leg portion 32 (page 13, lines 3-9) and the neck 18 has side neck portions 22 (page 12, lines 29-30). Side portions, naturally, are away from any central region because they are side portions, and not

portions in general. Further, as better illustrated in Figures 5 and 8, barbs of the present invention have an origin on a side portion.

In contrast, Giannuzzi' s tabs have an origin in a central region of just the legs, and not on side portions, as shown clearly in all Giannuzzi' s Figures. If Giannuzzi' s tabs had an origin at a region of a side portion, Giannuzzi' s fastener would not be functional, because such tabs, like the barbs of the instant invention for example, would not be disposed in a position to allow them to hold the screw 23 (Giannuzzi' s Figures 6 and 7, and column 5, lines 40-68). Thus, Giannuzzi' s disclosure leads a person of ordinary skill in the art away from making fasteners with barbs originating at the side portions of the neck and/or the legs, and therefore, leads a person of ordinary skill in the art away from the instant invention.

Further, the barbs claimed in claims 21 and 32, in the now amended claims and as shown in Figures 5, 6, and 8 and the newly added Figure 6A clearly show, have a bent separating the proximal barb section from the distal barb section, the former being directed away from the neck and leg side portions, and the latter being directed toward the neck and leg side portions, regardless of whether the fastener is in expanded or non-expanded position by the expanding member or screw.

In contrast Giannuzzi' s tabs have a single portion, which albeit the fact that may be considered to comprise indefinite proximal portion and distal portion, both portions have the same direction, and both portions are directed at the same time away from the neck and leg portions only when the fastener is in a non-expanded position, while both portions are directed toward the neck and the legs only when the fastener is in expanded position. This profound difference is made clear by the present amendment.

Again, Giannuzzi' s tab configuration would not work to maintain the fastener within the slot of a panel as the barbs of the instant invention, and the barbs of the instant invention would not serve the purposes of Giannuzzi' s disclosure of holding the legs of the fastener expanded by an expanding member, such as Giannuzzi' s screw 23.

Therefore, Applicants earnestly believe that independent claims 21 and 32, as well as their dependent claims 22-25, 28-31, 33-36 and 39-42, as now clarified by the amendment, are not anticipated under 35 USC § 102(b) by Giannuzzi (U. S. Patent No. 5,447,005), and respectfully request removal of the rejection.

Although it is immaterial after the above arguments, Applicants respectfully submit that the allegation of the Office Action that Giannuzzi discloses an oblong hole in his Figure 4 is not correct. The hole shown in Giannuzzi's Figure 4 is just a round hole made by an impression, and is the same round hole 11 shown, for example, in Applicants' Figures 1, 5, 9, 12. An oblong hole is one as shown in Applicants' Figure 8, and discussed in the specification on page 16, lines 28-30. Further, Applicants respectfully submit that Giannuzzi's disclosure does not include an angle as the angle claimed in claim 42. The Office Action alleges that Giannuzzi discloses that the "proximal" and "distal" sections have an angle, but does not specify what angle is meant, and where it is disclosed.

Claim Rejections - 35 USC § 103

5. The comments of the Examiner are acknowledged.
6. Claims 26, 27, 37 and 38 were ejected under 35 USC § 103(a) as being allegedly unpatentable over U.S. Patent No. 5,447,379,005 to Giannuzzi, as applied to claims 21 and 32 above, and further in view of US Pat No 6,379,092 to Patel et al (Patel).

Applicants respectfully traverse the position of the Office Action.

Applicants respectfully submit that the arguments presented above regarding anticipation, and there is no need to repeat them again, prove without any doubt that claims 21 and 32 are also patentable over US Patent 5,447,005 to Giannuzzi. Thus, claims 26 and 27, which depend directly or indirectly from claim 21, and claims 37 and 38, which depend directly or indirectly from claim 32, are necessarily also patentable, regardless of any additional limitations, such as for example an elastic body molded under the at least lower side of the fastener, as disclosed by Patel in US

Patent 6,379,092.

Therefore, Applicants earnestly believe that dependent claims 26, 27, 37 and 38, as now clarified by the amendment, are not unpatentable under 35 USC § 103(a) over Giannuzzi (U. S. Patent No. 5,447,005) as applied by the Office action to claims 21 and 32 above, and further in view of US Patent 6,379,092 to Patel, and respectfully request removal of the rejection.

7. Claims 45 and 46 were rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No 5,447,005 to Giannuzzi in view of US Patent No 6,709,210 to Lowry et al (Lowry '210).

Applicants respectfully traverse the position of the Office Action.

First, all the arguments brought up above regarding claims 21 and 32, are valid in the case of claims 45 and 46.

Second, Applicants respectfully submit that Lowry '210 cannot be cited as prior art under 35 U.S.C. 103(a), because it issued on March 23, 2004, while the Parent Application **10/209,765** of the instant Application 10/729,152 **was filed on 08/01/2002**. Even the Publication (US-2003-0202857-A1) corresponding to Lowry '210 issued on 10/30/2003.

Therefore, Applicants respectfully request the rejection of claims 45 and 46 as being unpatentable over US Patent No 5,447,005 to Giannuzzi in view of US Patent No 6,709,210 to Lowry et al (Lowry '210).

Response to Arguments

8. The Response of the Office Action to the Applicants' Arguments is respectfully traversed for the reasons and clarifications made above.

Conclusion

The comments of the Examiner are acknowledged.